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<sup>5</sup> An Application for Review directed against that action is pending. In view of our action in this proceeding deleting Channel 248C, it will not be an impediment on the aspects of the Application for Review.

FCC MAIL SECTION

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

DEC 3 1 19 PM '05

DISPATCHED: 10/10/54

**In the Matter of**

**Amendment of Section 73.202(b)  
Table of Allotments,  
FM Broadcast Stations.  
(Clayton and Raton, New Mexico)**

MB Docket No. 04-220  
RM-10861

**REPORT AND ORDER**  
**(Proceeding Terminated)**

**Adopted: December 1, 2004**

**Released: December 3, 2004**

**By the Assistant Chief, Audio Division, Media Bureau:**

1. The Audio Division considers herein the *Notice of Proposed Rule Making* ("Notice")<sup>1</sup>, issued at the request of Clayton Community Broadcasters ("Petitioner"), requesting the allotment of Channel 248C1 at Clayton, New Mexico, as its second FM commercial aural broadcast service.<sup>2</sup> To accommodate Channel 248C1 at Clayton, Petitioner requests the deletion of vacant Channel 248C1 at Raton, New Mexico. Petitioner filed comments. No counterproposals or additional comments were received in response to this proceeding.

2. The *Notice* proposed the allotment of Channel 248C1 at Clayton, as its second FM commercial aural broadcast service.<sup>3</sup> To accommodate the proposed Clayton allotment, the *Notice* proposed the deletion of Channel 248C1 at Raton, New Mexico.<sup>4</sup> Petitioner filed comments stating that it would file the necessary application to implement the proposed Raton allotment, if allotted. No comments were received expressing an interest in vacant Channel 248C1 at Raton during the comment cycle.

3. Accordingly, we are allotting Channel 248C1 to Clayton, as its second FM commercial aural broadcast service. To accommodate the Clayton allotment, we are deleting Channel 248C1 at Raton because no interest was expressed in this allotment. In a related content, we dismissed a counterproposal in MB Docket No. 03-57 which, *inter alia*, proposed a substitution of channel 248C1 at Raton.<sup>5</sup> Channel 248C1 can be allotted to Clayton in compliance with the Commission's spacing requirements without a site restriction at coordinates 36-27-00 NL and 103-10-54 WL.

<sup>1</sup> *Clayton, New Mexico*, 19 FCC Rcd 10198 (MB 2004).

<sup>2</sup> Channel 228A is assigned to Clayton.

<sup>3</sup> Clayton is the County Seat of Union County, New Mexico and is listed in the 2000 U.S. Census with a population of 2,524 persons. Clayton has its own post office, fire and police departments, local school system, Tourist Information Center and numerous organizations such as the American Legion and Boy Scouts and Girl Scouts. The community has a weekly newspaper, *The Union County Leader*, two banks, several restaurants and a hospital.

<sup>4</sup> N'Joy Broadcasting filed an application for Channel 248C1 at Raton and was granted a construction permit for Channel 248C1. That application has been dismissed by letter on June 10, 2003, and the call sign KGOY at Raton, New Mexico was deleted. See BMPH-20011217AAI.

<sup>5</sup> An Application for Review directed against that action is pending. In view of our action in this proceeding deleting Channel 248C, it will not be an impediment on the aspects of the Application for Review.